

E & R AMENDMENTS TO LB 925

Introduced by Enrollment and Review Committee: Flood, 19,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 28-306, Revised Statutes Cumulative  
4 Supplement, 2004, is amended to read:

5           28-306 (1) A person who causes the death of another  
6 unintentionally while engaged in the operation of a motor vehicle  
7 in violation of the law of the State of Nebraska or in violation of  
8 any city or village ordinance commits motor vehicle homicide.

9           (2) Except as provided in subsection (3) of this section,  
10 motor vehicle homicide is a Class I misdemeanor.

11           (3) (a) If the proximate cause of the death of another is  
12 the operation of a motor vehicle in violation of section 60-6,213  
13 or 60-6,214, motor vehicle homicide is a Class IIIA felony.

14           (b) If the proximate cause of the death of another is  
15 the operation of a motor vehicle in violation of section 60-6,196  
16 or 60-6,197.06, motor vehicle homicide is a Class ~~IIIA~~ III felony.  
17 The court shall, as part of the judgment of conviction, order the  
18 person not to drive any motor vehicle for any purpose for a period  
19 of at least ~~sixty days~~ one year and not more than fifteen years and  
20 shall order that the operator's license of such person be revoked  
21 for the same period.

22           (c) If the proximate cause of the death of another is  
23 the operation of a motor vehicle in violation of section 60-6,196

1 or 60-6,197.06, motor vehicle homicide is a Class ~~III~~ II felony if  
2 the defendant has a prior conviction for a violation of section  
3 60-6,196 or 60-6,197.06, under a city or village ordinance enacted  
4 in conformance with section 60-6,196, or under a law of another  
5 state if, at the time of the conviction under the law of such other  
6 state, the offense for which the defendant was convicted would have  
7 been a violation of section 60-6,196. The court shall, as part of  
8 the judgment of conviction, order the person not to drive any motor  
9 vehicle for any purpose for a period of ~~at least sixty days and not~~  
10 ~~more than~~ fifteen years and shall order that the operator's license  
11 of such person be revoked for the same period.

12 (d) An order of the court described in subdivision (b) or  
13 (c) of this subsection shall be administered upon sentencing, upon  
14 final judgment of any appeal or review, or upon the date that any  
15 probation is revoked.

16 Sec. 2. Section 60-497.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 60-497.01 (1) An abstract of the court record of every  
19 case in which a person is convicted of violating any provision of  
20 the Motor Vehicle Operator's License Act, the Motor Vehicle Safety  
21 Responsibility Act, or the Nebraska Rules of the Road, as from time  
22 to time amended by the Legislature, or any traffic regulations in  
23 city or village ordinances shall be transmitted within thirty days  
24 of sentencing or other disposition by the court to the director.  
25 Any abstract received by the director more than thirty days after  
26 the date of sentencing or other disposition shall be reported by  
27 the director to the State Court Administrator.

1                   (2) Any person violating section 28-306, 60-696, 60-697,  
2   60-6,196, 60-6,197, 60-6,213, or 60-6,214 who is placed on  
3   probation shall be assessed the same points under section 60-4,182  
4   as if such person were not placed on probation unless a court has  
5   ordered the installation of an ignition interlock device or the  
6   use of a continuous alcohol monitoring device pursuant to section  
7   60-6,211.05 and sufficient evidence is presented to the department  
8   that such a device is installed or in use. For any other violation,  
9   the director shall not assess such person with any points under  
10 ~~such~~ section 60-4,182 for such violation when the person is placed  
11 on probation<sup>7</sup> until the director is advised by the court that such  
12 person previously placed on probation has violated the terms of  
13 his or her probation and such probation has been revoked. Upon  
14 receiving notice of revocation of probation, the director shall  
15 assess to such person the points which such person would have been  
16 assessed had the person not been placed on probation. When a person  
17 fails to successfully complete probation, the court shall notify  
18 the director immediately.

19               Sec. 3. Section 60-498.02, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21               60-498.02 (1) At the expiration of thirty days after the  
22 date of arrest as described in subsection (2) of section 60-6,197  
23 or if after a hearing pursuant to section 60-498.01 the Director  
24 of Motor Vehicles finds that the operator's license should be  
25 revoked, the director shall (a) revoke the operator's license of a  
26 person arrested for refusal to submit to a chemical test of blood,  
27 breath, or urine as required by section 60-6,197 for a period of

1 one year and (b) revoke the operator's license of a person who  
2 submits to a chemical test pursuant to such section which discloses  
3 the presence of a concentration of alcohol specified in section  
4 60-6,196 for a period of ninety days unless the person's driving  
5 record abstract maintained in the department's computerized records  
6 shows one or more prior administrative license revocations on which  
7 final orders have been issued during the immediately preceding  
8 twelve-year period at the time the order of revocation is issued,  
9 in which case the period of revocation shall be one year. Except  
10 as otherwise provided in section 60-6,211.05, a new operator's  
11 license shall not be issued to such person until the period of  
12 revocation has elapsed. If the person subject to the revocation is  
13 a nonresident of this state, the director shall revoke only the  
14 nonresident's operating privilege as defined in section 60-474 of  
15 such person and shall immediately forward the operator's license  
16 and a statement of the order of revocation to the person's state  
17 of residence.

18 (2) At the expiration of thirty days after an order  
19 of revocation is entered under subsection (1) of this section,  
20 (a) any person whose operator's license has been administratively  
21 revoked for a period of ninety days for submitting to a chemical  
22 test pursuant to section 60-6,197 which disclosed the presence of  
23 a concentration of alcohol in violation of section 60-6,196 may  
24 make application to the director for issuance of an employment  
25 driving permit pursuant to section 60-4,130 and (b) any person who  
26 submitted to a chemical test pursuant to section 60-6,197 and has  
27 his or her operator's license revoked for ninety days pursuant to

1 subsection (1) of this section is eligible for an order pursuant  
2 to section 60-6,211.05 to either operate a motor vehicle equipped  
3 with an ignition interlock device or operate a motor vehicle while  
4 using a continuous alcohol monitoring device upon presentation of  
5 sufficient evidence to the Department of Motor Vehicles that such a  
6 device is installed or in use.

7           This subsection shall not apply to nor shall any person  
8 be eligible for the benefit of this subsection during any period of  
9 time during which his or her operator's license is subject to an  
10 administrative revocation order for refusal to submit to a chemical  
11 test of blood, breath, or urine as required by section 60-6,197  
12 or is subject to a one-year revocation under subdivision (1)(b) of  
13 this section.

14           (3) A person may have his or her eligibility for a  
15 license reinstated upon payment of a reinstatement fee as required  
16 by section 60-694.01.

17           (4)(a) A person whose operator's license is subject to  
18 revocation pursuant to subsection (3) of section 60-498.01 shall  
19 have all proceedings dismissed or his or her operator's license  
20 immediately reinstated without payment of the reinstatement fee  
21 upon receipt of suitable evidence by the director that:

22           (i) Within the thirty-day period following the date  
23 of arrest, the prosecuting attorney responsible for the matter  
24 declined to file a complaint alleging a violation of section  
25 60-6,196 and notified the director by first-class mail or facsimile  
26 transmission of such decision and the director received such notice  
27 within such period or the notice was postmarked within such period;

1 or

2 (ii) The defendant, after trial, was found not guilty  
3 of violating section 60-6,196 or such charge was dismissed on the  
4 merits by the court.

5 (b) The director shall adopt and promulgate rules and  
6 regulations establishing standards for the presentation of suitable  
7 evidence of compliance with subdivision (a) of this subsection.

8 (c) If a charge is filed for a violation of section  
9 60-6,196 pursuant to an arrest for which all proceedings were  
10 dismissed under this subsection, the prosecuting attorney shall  
11 notify the director by first-class mail or facsimile transmission  
12 of the filing of such charge and the director may reinstate an  
13 administrative license revocation under this section as of the  
14 date that the director receives notification of the filing of the  
15 charge, except that a revocation shall not be reinstated if it was  
16 dismissed pursuant to section 60-498.01.

17 Sec. 4. Section 60-4,118.06, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 60-4,118.06 (1) Upon receipt by the director of  
20 (a) a certified copy of a court order issued pursuant to  
21 section 60-6,211.05, (b) sufficient evidence that the person has  
22 surrendered his or her operator's license to the Department of  
23 Motor Vehicles and either has installed an approved ignition  
24 interlock device or is using a continuous alcohol monitoring  
25 device in accordance with such court order, and (c) payment of  
26 the fee provided in section 60-4,115, such person may apply for  
27 reinstatement of his or her eligibility for an operator's license

1 following the passage of thirty days of the ninety-day revocation  
2 period under section 60-498.02 and the director shall issue to  
3 such person a Class O license restricted to the operation of a  
4 motor vehicle equipped with an ignition interlock device or while  
5 using a continuous alcohol monitoring device. The department shall  
6 not issue such a license to any person convicted of a second or  
7 subsequent violation of section 60-6,196 or 60-6,197 until at least  
8 one year of the operator's license revocation has elapsed.

9 (2) Upon expiration of the court order issued pursuant  
10 to section 60-6,211.05 or an order issued by the Board of  
11 Pardons pursuant to section 83-1,127.02, a person may apply to  
12 the department in writing for issuance of an operator's license  
13 which does not contain such restriction. Regardless of whether the  
14 license surrendered by such person under subsection (1) of this  
15 section has expired, the person shall apply for a new operator's  
16 license pursuant to the Motor Vehicle Operator's License Act.

17 Sec. 5. Section 60-4,182, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 60-4,182 In order to prevent and eliminate successive  
20 traffic violations, there is hereby provided a point system dealing  
21 with traffic violations as disclosed by the files of the director.  
22 The following point system shall be adopted:

23 (1) Conviction of motor vehicle homicide - 12 points;

24 (2) Third offense drunken driving in violation of any  
25 city or village ordinance or of section 60-6,196, as disclosed by  
26 the records of the director, regardless of whether the trial court  
27 found the same to be a third offense - 12 points;

1           (3) Failure to stop and render aid as required under ~~the~~  
2 ~~laws of this state~~ section 60-697 in the event of involvement in a  
3 motor vehicle accident resulting in the death or personal injury of  
4 another - 6 points;

5           (4) Failure to stop and ~~render aid~~ report as required  
6 under ~~the laws of this state~~ section 60-696 or any city or village  
7 ordinance in the event of a motor vehicle accident resulting  
8 in property damage if such accident is reported by the owner  
9 or operator within twelve hours from the time of the accident  
10 - 4 6 points; ~~otherwise - 8 points,~~ and for purposes of  
11 this subdivision a telephone call or other notification to the  
12 appropriate peace officers shall be deemed to be a report;

13           (5) Driving a motor vehicle while under the influence  
14 of alcoholic liquor or any drug or when such person has a  
15 concentration of eight-hundredths of one gram or more by weight of  
16 alcohol per one hundred milliliters of his or her blood or per two  
17 hundred ten liters of his or her breath in violation of any city or  
18 village ordinance or of section 60-6,196 - 6 points;

19           (6) Willful reckless driving in violation of any city or  
20 village ordinance or of section 60-6,214 or 60-6,217 - 6 points;

21           (7) Careless driving in violation of any city or village  
22 ordinance or of section 60-6,212 - 4 points;

23           (8) Negligent driving in violation of any city or village  
24 ordinance - 3 points;

25           (9) Reckless driving in violation of any city or village  
26 ordinance or of section 60-6,213 - 5 points;

27           (10) Speeding in violation of any city or village

1 ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:

2 (a) Not more than five miles per hour over the speed  
3 limit - 1 point;

4 (b) More than five miles per hour but not more than ten  
5 miles per hour over the speed limit - 2 points; and

6 (c) More than ten miles per hour over the speed limit -  
7 3 points, except that one point shall be assessed upon conviction  
8 of exceeding by not more than ten miles per hour, two points shall  
9 be assessed upon conviction of exceeding by more than ten miles per  
10 hour but not more than fifteen miles per hour, and three points  
11 shall be assessed upon conviction of exceeding by more than fifteen  
12 miles per hour the speed limits provided for in subdivision (1) (e),  
13 (f), or (g) of section 60-6,186;

14 (11) Failure to yield to a pedestrian not resulting in  
15 bodily injury to a pedestrian - 2 points;

16 (12) Failure to yield to a pedestrian resulting in bodily  
17 injury to a pedestrian - 4 points; and

18 (13) All other traffic violations involving the operation  
19 of motor vehicles by the operator for which reports to the  
20 Department of Motor Vehicles are required under sections 60-497.01  
21 and 60-497.02, not including violations involving an occupant  
22 protection system pursuant to section 60-6,270, parking violations,  
23 violations for operating a motor vehicle without a valid operator's  
24 license in the operator's possession, muffler violations,  
25 overwidth, overheight, or overlength violations, motorcycle or  
26 moped protective helmet violations, or overloading of trucks - 1  
27 point.

1           All such points shall be assessed against the driving  
2 record of the operator as of the date of the violation for which  
3 conviction was had. Points may be reduced by the department under  
4 section 60-4,188.

5           In all cases, the forfeiture of bail not vacated shall be  
6 regarded as equivalent to the conviction of the offense with which  
7 the operator was charged.

8           The point system shall not apply to persons convicted  
9 of traffic violations committed while operating a bicycle or an  
10 electric personal assistive mobility device as defined in section  
11 60-618.02.

12           Sec. 6. Section 60-601, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           60-601 Sections 60-601 to 60-6,377 and sections 8 and 16  
15 of this act shall be known and may be cited as the Nebraska Rules  
16 of the Road.

17           Sec. 7. Section 60-605, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           60-605 For purposes of the Nebraska Rules of the Road,  
20 the definitions found in sections 60-606 to 60-676 and section 8 of  
21 this act shall be used.

22           Sec. 8. Continuous alcohol monitoring device means a  
23 portable device capable of automatically and periodically testing  
24 and recording alcohol consumption levels and automatically and  
25 periodically transmitting such information and tamper attempts  
26 regarding such device, regardless of the location of the person  
27 being monitored.

1           Sec. 9. Section 60-696, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           60-696 (1) Except as provided in subsection (2) of this  
4 section, the driver of any vehicle involved in an accident either  
5 upon a public highway, private road, or private drive, resulting  
6 in damage to property, shall (a) immediately stop such vehicle at  
7 the scene of such accident and (b) give his or her name, address,  
8 telephone number, and ~~his or her~~ operator's license number to the  
9 owner of the property struck or the driver or occupants of any  
10 other vehicle involved in the collision.

11           (2) The driver of any vehicle involved in an accident  
12 either upon a public highway, private road, or private drive,  
13 resulting in damage to an unattended vehicle or property, shall  
14 immediately stop such vehicle and leave in a conspicuous place  
15 in or on the unattended vehicle or property a written notice  
16 containing the information required by subsection (1) of this  
17 section. In addition, such driver shall, without unnecessary delay,  
18 report the collision, by telephone or otherwise, to an appropriate  
19 peace officer.

20           (3) Any person violating subsection (1) or (2) of this  
21 section shall be guilty of a Class ~~III~~ II misdemeanor. If such  
22 person has had one or more convictions under this section in  
23 the twelve years prior to the date of the current conviction  
24 under this section, such person shall be guilty of a Class ~~II~~  
25 I misdemeanor. As part of any sentence, suspended sentence, or  
26 judgment of conviction under this section, the court shall order  
27 the defendant not to drive any motor vehicle for any purpose in the

1 State of Nebraska for ~~not less than thirty days nor more than a~~  
2 period of one year from the date ordered by the court.

3 Sec. 10. Section 60-697, Revised Statutes Supplement,  
4 2005, is amended to read:

5 60-697 The driver of any vehicle involved in an accident  
6 upon either a public highway, private road, or private drive,  
7 resulting in injury or death to any person, shall (1) immediately  
8 stop such vehicle at the scene of such accident and ascertain  
9 the identity of all persons involved, (2) give his or her  
10 name and address and the license number of the vehicle and  
11 exhibit his or her operator's license to the person struck or the  
12 ~~driver or~~ occupants of any vehicle collided with, and (3) render  
13 to any person injured in such accident reasonable assistance,  
14 including the carrying of such person to a physician or surgeon  
15 for medical or surgical treatment if it is apparent that such  
16 treatment is necessary or is requested by the injured person. Any  
17 person violating any of the provisions of this section shall upon  
18 conviction thereof be punished as provided in section 60-698.

19 Sec. 11. Section 60-698, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 60-698 Every person convicted of violating section 60-697  
22 relative to the duty to stop in the event of certain accidents  
23 shall be guilty of a Class I ~~misdemeanor~~ IIIA felony. The court  
24 shall, as part of the judgment of conviction, order such person not  
25 to drive any motor vehicle for any purpose for a period of not  
26 ~~more~~ less than one year nor more than fifteen years from the date  
27 ordered by the court, and shall order that the operator's license

1 of such person be revoked for a like period. The order of the court  
2 shall be administered upon sentencing, upon final judgment of any  
3 appeal or review, or upon the date that any probation is revoked,  
4 whichever is later.

5 Sec. 12. Section 60-6,197.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 60-6,197.01 Upon conviction for a second or subsequent  
8 violation of section 60-6,196 or 60-6,197, the court shall impose  
9 ~~either one~~ one of the following restrictions on ~~all motor vehicles~~  
10 ~~owned by~~ the person so convicted:

11 (1)(a) The court shall order ~~the motor vehicle or all~~  
12 motor vehicles owned by the person immobilized at the owner's  
13 expense for a period of time not less than five days and not  
14 more than eight months and shall notify the Department of Motor  
15 Vehicles of the period of immobilization. Any immobilized motor  
16 vehicle shall be released to the holder of a bona fide lien on the  
17 motor vehicle executed prior to such immobilization when possession  
18 of the motor vehicle is requested as provided by law by such  
19 lienholder for purposes of foreclosing and satisfying such lien.  
20 If a person tows and stores a motor vehicle pursuant to this  
21 subdivision at the direction of a peace officer or the court and  
22 has a lien upon such motor vehicle while it is in his or her  
23 possession for reasonable towing and storage charges, the person  
24 towing the vehicle has the right to retain such motor vehicle until  
25 such lien is paid. For purposes of this subdivision, immobilized  
26 or immobilization means revocation or suspension, at the discretion  
27 of the court, of the registration of such motor vehicle or motor

1 vehicles, including the license plates; and

2 (b)(i) Any immobilized motor vehicle shall be released  
3 by the court without any legal or physical restraints to any  
4 registered owner who is not the registered owner convicted of a  
5 second or subsequent violation of section 60-6,196 or 60-6,197  
6 if an affidavit is submitted to the court by such registered  
7 owner stating that the affiant is employed, that the motor vehicle  
8 subject to immobilization is necessary to continue that employment,  
9 that such employment is necessary for the well-being of the  
10 affiant's dependent children or parents, that the affiant will not  
11 authorize the use of the motor vehicle by any person known by the  
12 affiant to have been convicted of a second or subsequent violation  
13 of section 60-6,196 or 60-6,197, that affiant will immediately  
14 report to a local law enforcement agency any unauthorized use of  
15 the motor vehicle by any person known by the affiant to have been  
16 convicted of a second or subsequent conviction of section 60-6,196  
17 or 60-6,197, and that failure to release the motor vehicle would  
18 cause undue hardship to the affiant.

19 (ii) A registered owner who executes an affidavit  
20 pursuant to subdivision (1)(b)(i) of this section which is  
21 acted upon by the court and who fails to immediately report an  
22 unauthorized use of the motor vehicle which is the subject of the  
23 affidavit is guilty of a Class IV misdemeanor and may not file  
24 any additional affidavits pursuant to subdivision (1)(b)(i) of this  
25 section.

26 (iii) The department shall adopt and promulgate rules and  
27 regulations to implement the provisions of subdivision (1) of this

1 section; or

2 (2) As an alternative to subdivision (1) of this section,  
3 the court shall order the installation of an ignition interlock  
4 device on each of the owner's motor vehicles or the use of a  
5 continuous alcohol monitoring device if the owner was sentenced  
6 to an operator's license revocation of at least one year and  
7 has completed at least one year of such revocation. No license  
8 reinstatement may occur until sufficient evidence is presented to  
9 the department that an ignition interlock device is installed on  
10 each vehicle or a continuous alcohol monitoring device is in use  
11 and that the applicant is eligible for use of an ignition interlock  
12 device or a continuous alcohol monitoring device. The installation  
13 of an ignition interlock device or use of a continuous alcohol  
14 monitoring device shall be for a period not less than six months  
15 commencing upon the end of such year of the operator's license  
16 revocation. Notwithstanding any other provision of law, if the  
17 owner was convicted of a second or subsequent violation of section  
18 60-6,196 or 60-6,197, no ignition interlock device or continuous  
19 alcohol monitoring device shall be ordered by any court or state  
20 agency under any circumstances until at least one year of the  
21 operator's license revocation shall have elapsed.

22 Sec. 13. Section 60-6,197.03, Revised Statutes  
23 Supplement, 2005, is amended to read:

24 60-6,197.03 Any person convicted of a violation of  
25 section 60-6,196 or 60-6,197 shall be punished as follows:

26 (1) ~~If~~ Except as provided in subdivision (2) of this  
27 section, if such person has not had a prior conviction, such person

1 shall be guilty of a Class W misdemeanor, and the court shall,  
2 as part of the judgment of conviction, order that the operator's  
3 license of such person be revoked or impounded for a period of  
4 six months from the date ordered by the court. Such revocation  
5 or impoundment shall be administered upon sentencing, upon final  
6 judgment of any appeal or review, or upon the date that any  
7 probation is revoked.

8           If the court places such person on probation or suspends  
9 the sentence for any reason, the court shall, as one of the  
10 conditions of probation or sentence suspension, order that the  
11 operator's license of such person be revoked or impounded for  
12 a period of sixty days from the date ordered by the court  
13 unless otherwise authorized by an order issued pursuant to section  
14 60-6,211.05, and such order of probation or sentence suspension  
15 shall also include, as one of its conditions, the payment of a  
16 four-hundred-dollar fine;

17           (2) If such person has not had a prior conviction  
18 and, as part of the current violation, had a concentration of  
19 fifteen-hundredths of one gram or more by weight of alcohol per  
20 one hundred milliliters of his or her blood or fifteen-hundredths  
21 of one gram or more by weight of alcohol per two hundred ten  
22 liters of his or her breath, such person shall be guilty of  
23 a Class W misdemeanor, and the court shall, as part of the  
24 judgment of conviction, revoke the operator's license of such  
25 person for a period of one year from the date ordered by the  
26 court. Such revocation shall be administered upon sentencing, upon  
27 final judgment of any appeal or review, or upon the date that any

1 probation is revoked.

2 If the court places such person on probation or suspends  
3 the sentence for any reason, the court shall, as one of the  
4 conditions of probation or sentence suspension, order that the  
5 operator's license of such person be revoked or impounded for  
6 a period of one year from the date ordered by the court  
7 unless otherwise authorized by an order issued pursuant to  
8 section 60-6,211.05, and such order of probation or sentence  
9 suspension shall also include, as conditions, the payment of a  
10 five-hundred-dollar fine and either confinement in the city or  
11 county jail for ten days or the imposition of not less than two  
12 hundred forty hours of community service;

13 ~~{2}~~ (3) Except as provided in subdivision ~~{4}~~ (5) of this  
14 section, if such person has had one prior conviction, such person  
15 shall be guilty of a Class W misdemeanor, and the court shall,  
16 as part of the judgment of conviction, order that the operator's  
17 license of such person be revoked for a period of one year from  
18 the date ordered by the court and shall issue an order pursuant  
19 to section 60-6,197.01, with respect to all motor vehicles owned  
20 by such person. Such orders shall be administered upon sentencing,  
21 upon final judgment of any appeal or review, or upon the date that  
22 any probation is revoked.

23 If the court places such person on probation or suspends  
24 the sentence for any reason, the court shall, as one of the  
25 conditions of probation or sentence suspension, order that the  
26 operator's license of such person be revoked or impounded for  
27 a period of one year from the date ordered by the court

1 unless otherwise authorized by an order issued pursuant to  
2 section 60-6,211.05 and shall issue an order pursuant to section  
3 60-6,197.01, ~~with respect to all motor vehicles owned by such~~  
4 ~~person,~~ and such order of probation or sentence suspension shall  
5 also include, as conditions, the payment of a five-hundred-dollar  
6 fine and either confinement in the city or county jail for ~~five~~ ten  
7 days or the imposition of not less than two hundred forty hours of  
8 community service;

9 ~~(3)~~ (4) Except as provided in subdivision ~~(4)~~ (6) of  
10 this section, if such person has had two prior convictions, such  
11 person shall be guilty of a Class W misdemeanor, and the court  
12 shall, as part of the judgment of conviction, order that the  
13 operator's license of such person be revoked for a period of  
14 fifteen years from the date ordered by the court and shall issue  
15 an order pursuant to section 60-6,197.01, ~~with respect to all motor~~  
16 ~~vehicles owned by such person.~~ Such orders shall be administered  
17 upon sentencing, upon final judgment of any appeal or review, or  
18 upon the date that any probation is revoked.

19 If the court places such person on probation or suspends  
20 the sentence for any reason, the court shall, as one of the  
21 conditions of probation or sentence suspension, order that the  
22 operator's license of such person be revoked ~~or impounded~~ for a  
23 period of ~~one year~~ fifteen years from the date ordered by the  
24 court unless otherwise authorized by an order issued pursuant to  
25 section 60-6,211.05 and shall issue an order pursuant to section  
26 60-6,197.01, ~~with respect to all motor vehicles owned by such~~  
27 ~~person,~~ and such order of probation or sentence suspension shall

1 also include, as conditions, the payment of a six-hundred-dollar  
2 fine and ~~either~~ confinement in the city or county jail for ~~ten~~  
3 thirty days; or the imposition of not less than four hundred eighty  
4 hours of community service;

5 ~~(4)~~ (5) If such person has had one ~~or two~~ prior  
6 ~~convictions~~ conviction and, as part of the current violation,  
7 had a concentration of ~~sixteen-hundredths~~ fifteen-hundredths of one  
8 gram or more by weight of alcohol per one hundred milliliters of  
9 his or her blood or ~~sixteen-hundredths~~ fifteen-hundredths of one  
10 gram or more by weight of alcohol per two hundred ten liters  
11 of his or her breath, such person shall be guilty of a Class  
12 I misdemeanor, and the court shall, as part of the judgment of  
13 conviction, revoke the operator's license of such person ~~for any~~  
14 ~~purpose~~ for a period of at least one year but not more than  
15 fifteen years from the date ordered by the court and shall issue  
16 an order pursuant to section 60-6,197.01\_ ~~with respect to all motor~~  
17 ~~vehicles owned by such person.~~ Such revocation and order shall be  
18 administered upon sentencing, upon final judgment of any appeal  
19 or review, or upon the date that any probation is revoked. The  
20 court shall also sentence such person to serve at least ~~thirty~~  
21 ninety days' imprisonment in the city or county jail or an adult  
22 correctional facility.

23 If the court places such person on probation or suspends  
24 the sentence for any reason, the court shall, as one of the  
25 conditions of probation or sentence suspension, order that the  
26 operator's license of such person be revoked or impounded for a  
27 period of at least one year but not more than fifteen years from

1 the date ordered by the court unless otherwise authorized by an  
2 order issued pursuant to section 60-6,211.05 and shall issue an  
3 order pursuant to section 60-6,197.01, ~~with respect to all motor~~  
4 ~~vehicles owned by such person,~~ and such order of probation or  
5 sentence suspension shall also include, as conditions, the payment  
6 of a one-thousand-dollar fine and ~~either~~ confinement in the city or  
7 county jail for ~~ten~~ thirty days; ~~or the imposition of not less than~~  
8 ~~four hundred eighty hours of community service;~~ and

9 (6) If such person has had two prior convictions  
10 and, as part of the current violation, had a concentration of  
11 fifteen-hundredths of one gram or more by weight of alcohol per one  
12 hundred milliliters of his or her blood or fifteen-hundredths of  
13 one gram or more by weight of alcohol per two hundred ten liters  
14 of his or her breath, such person shall be guilty of a Class IIIA  
15 felony, and the court shall, as part of the judgment of conviction,  
16 revoke the operator's license of such person for a period of  
17 fifteen years from the date ordered by the court and shall issue  
18 an order pursuant to section 60-6,197.01. Such revocation and order  
19 shall be administered upon sentencing, upon final judgment of any  
20 appeal or review, or upon the date that any probation is revoked.  
21 The court shall also sentence such person to serve at least one  
22 hundred eighty days' imprisonment in the city or county jail or an  
23 adult correctional facility.

24 If the court places such person on probation or suspends  
25 the sentence for any reason, the court shall, as one of the  
26 conditions of probation or sentence suspension, order that the  
27 operator's license of such person be revoked for a period of

1 fifteen years from the date ordered by the court unless otherwise  
2 authorized by an order issued pursuant to section 60-6,211.05 and  
3 shall issue an order pursuant to section 60-6,197.01, and such  
4 order of probation or sentence suspension shall also include,  
5 as conditions, the payment of a one-thousand-dollar fine and  
6 confinement in the city or county jail for sixty days;

7       ~~(5)~~ If (7) Except as provided in subdivision (8) of this  
8 section, if such person has had three ~~or more~~ prior convictions,  
9 such person shall be guilty of a Class ~~IV~~ IIIA felony, and the  
10 court shall, as part of the judgment of conviction, order that  
11 the operator's license of such person be revoked for a period of  
12 fifteen years from the date ordered by the court and shall issue  
13 an order pursuant to section 60-6,197.01\_ ~~with respect to all motor~~  
14 ~~vehicles owned by such person.~~ Such orders shall be administered  
15 upon sentencing, upon final judgment of any appeal or review, or  
16 upon the date that any probation is revoked. The court shall also  
17 sentence such person to serve at least ~~ten~~ one hundred eighty days'  
18 imprisonment in the city or county jail or an adult correctional  
19 facility.

20       If the court places such person on probation or suspends  
21 the sentence for any reason, the court shall, as one of the  
22 conditions of probation or sentence suspension, order that the  
23 operator's license of such person be revoked ~~or impounded~~ for a  
24 period of ~~one year~~ fifteen years from the date ordered by the  
25 court unless otherwise authorized by an order issued pursuant to  
26 section 60-6,211.05 and shall issue an order pursuant to section  
27 60-6,197.01\_ ~~with respect to all motor vehicles owned by such~~

1 ~~person,~~ and such order of probation or sentence suspension shall  
2 also include, as conditions, the payment of a one-thousand-dollar  
3 fine and ~~either~~ confinement in the city or county jail for ~~ten~~  
4 ninety days; or the imposition of not less than four hundred eighty  
5 hours of community service.

6 (8) If such person has had three prior convictions  
7 and, as part of the current violation, had a concentration of  
8 fifteen-hundredths of one gram or more by weight of alcohol per one  
9 hundred milliliters of his or her blood or fifteen-hundredths of  
10 one gram or more by weight of alcohol per two hundred ten liters  
11 of his or her breath, such person shall be guilty of a Class III  
12 felony, and the court shall, as part of the judgment of conviction,  
13 revoke the operator's license of such person for a period of  
14 fifteen years from the date ordered by the court and shall issue  
15 an order pursuant to section 60-6,197.01. Such revocation and order  
16 shall be administered upon sentencing, upon final judgment of any  
17 appeal or review, or upon the date that any probation is revoked.  
18 The court shall also sentence such person to serve at least three  
19 hundred sixty-five days' imprisonment in the city or county jail or  
20 an adult correctional facility.

21 If the court places such person on probation or suspends  
22 the sentence for any reason, the court shall, as one of the  
23 conditions of probation or sentence suspension, order that the  
24 operator's license of such person be revoked for a period of  
25 fifteen years from the date ordered by the court unless otherwise  
26 authorized by an order issued pursuant to section 60-6,211.05 and  
27 shall issue an order pursuant to section 60-6,197.01, and such

1 order of probation or sentence suspension shall also include,  
2 as conditions, the payment of a one-thousand-dollar fine and  
3 confinement in the city or county jail for one hundred twenty days;

4 (9) Except as provided in subdivision (10) of this  
5 section, if such person has had four or more prior convictions,  
6 such person shall be guilty of a Class III felony, and the court  
7 shall, as part of the judgment of conviction, order that the  
8 operator's license of such person be revoked for a period of  
9 fifteen years from the date ordered by the court and shall issue  
10 an order pursuant to section 60-6,197.01. Such orders shall be  
11 administered upon sentencing, upon final judgment of any appeal or  
12 review, or upon the date that any probation is revoked. The court  
13 shall also sentence such person to serve at least three hundred  
14 sixty-five days' imprisonment in the city or county jail or an  
15 adult correctional facility.

16 If the court places such person on probation or suspends  
17 the sentence for any reason, the court shall, as one of the  
18 conditions of probation or sentence suspension, order that the  
19 operator's license of such person be revoked for a period of  
20 fifteen years from the date ordered by the court unless otherwise  
21 authorized by an order issued pursuant to section 60-6,211.05 and  
22 shall issue an order pursuant to section 60-6,197.01, and such  
23 order of probation or sentence suspension shall also include,  
24 as conditions, the payment of a one-thousand-dollar fine and  
25 confinement in the city or county jail for one hundred eighty days;  
26 and

27 (10) If such person has had four or more prior

1 convictions and, as part of the current violation, had a  
2 concentration of fifteen-hundredths of one gram or more by weight  
3 of alcohol per one hundred milliliters of his or her blood or  
4 fifteen-hundredths of one gram or more by weight of alcohol per  
5 two hundred ten liters of his or her breath, such person shall  
6 be guilty of a Class II felony and the court shall, as part of  
7 the judgment of conviction, revoke the operator's license of such  
8 person for a period of fifteen years from the date ordered by the  
9 court and shall issue an order pursuant to section 60-6,197.01.  
10 Such revocation and order shall be administered upon sentencing,  
11 upon final judgment of any appeal or review, or upon the date that  
12 any probation is revoked.

13 If the court places such person on probation or suspends  
14 the sentence for any reason, the court shall, as one of the  
15 conditions of probation or sentence suspension, order that the  
16 operator's license of such person be revoked for a period of  
17 fifteen years from the date ordered by the court unless otherwise  
18 authorized by an order issued pursuant to section 60-6,211.05 and  
19 shall issue an order pursuant to section 60-6,197.01, and such  
20 order of probation or sentence suspension shall also include,  
21 as conditions, the payment of a one-thousand-dollar fine and  
22 confinement in the city or county jail for one hundred eighty days.

23 Sec. 14. Section 60-6,197.06, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 60-6,197.06 Any person operating a motor vehicle on the  
26 highways or streets of this state while his or her operator's  
27 license has been revoked pursuant to subdivision ~~(3)~~ ~~or~~ (4), (5),

1 (6), (7), (8), (9), or (10) of section 60-6,197.03 or section  
2 60-6,198, or pursuant to subdivision (2)(c) or (2)(d) of section  
3 60-6,196 or subdivision (4)(c) or (4)(d) of section 60-6,197, as  
4 such subdivisions existed prior to July 16, 2004, shall be guilty  
5 of a Class IV felony, and the court shall, as part of the judgment  
6 of conviction, revoke the operator's license of such person for  
7 a period of fifteen years from the date ordered by the court  
8 and shall issue an order pursuant to section 60-6,197.01. Such  
9 revocation and order shall be administered upon sentencing, upon  
10 final judgment of any appeal or review, or upon the date that  
11 any probation is revoked. If such person has had a conviction  
12 under this section or under subsection (6) of section 60-6,196 or  
13 subsection (7) of section 60-6,197, as such subsections existed  
14 prior to July 16, 2004, prior to the date of the current conviction  
15 under this section, such person shall be guilty of a Class III  
16 felony, and the court shall, as part of the judgment of conviction,  
17 revoke the operator's license of such person for a period of  
18 fifteen years from the date ordered by the court and shall issue  
19 an order pursuant to section 60-6,197.01. Such revocation and order  
20 shall be administered upon sentencing, upon final judgment of any  
21 appeal or review, or upon the date that any probation is revoked.

22           Sec. 15. Section 60-6,197.08, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           60-6,197.08 Any person who has been convicted of driving  
25 while intoxicated shall, during a presentence evaluation, submit  
26 to and participate in an alcohol assessment by a licensed alcohol  
27 and drug counselor. The alcohol assessment shall be paid for by

1 the person convicted of driving while intoxicated. At the time of  
2 sentencing, the judge, having reviewed the assessment results, may  
3 then order the convicted person to follow through on the alcohol  
4 assessment results at the convicted person's expense in addition to  
5 any penalties deemed necessary.

6           Sec. 16. Notwithstanding the provisions of section  
7 60-498.02 or 60-6,197.03, a person who commits a violation  
8 punishable under subdivision (3)(b) or (c) of section 28-306 or  
9 a violation of section 60-6,196, 60-6,197, or 60-6,198 while  
10 participating in criminal proceedings for a violation of section  
11 60-6,196, 60-6,197, or 60-6,198, or a city or village ordinance  
12 enacted in accordance with section 60-6,196 or 60-6,197, or a law  
13 of another state if, at the time of the violation under the law  
14 of such other state, the offense for which the person was charged  
15 would have been a violation of section 60-6,197, shall not be  
16 eligible to receive a sentence of probation, a suspended sentence,  
17 or an employment driving permit authorized under subsection (2) of  
18 section 60-498.02 for either violation committed in this state.

19           Sec. 17. Section 60-6,210, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           60-6,210 (1) If the driver of a motor vehicle involved  
22 in an accident is transported to a hospital within or outside of  
23 Nebraska and a sample of the driver's blood is withdrawn by a  
24 physician, registered nurse, qualified technician, or hospital for  
25 the purpose of medical treatment, the results of a chemical test  
26 of the sample shall be admissible in a criminal prosecution for  
27 a violation ~~of section~~ punishable under subdivision (3)(b) or (c)

1 of section 28-306 or a violation of section 28-305, 60-6,196, or  
2 60-6,198 to show the alcoholic content of or the presence of drugs  
3 or both in the blood at the time of the accident regardless of  
4 whether (a) a peace officer requested the driver to submit to a  
5 test as provided in section 60-6,197 or (b) the driver had refused  
6 a chemical test.

7 (2) Any physician, registered nurse, qualified  
8 technician, or hospital in this state performing a chemical test  
9 to determine the alcoholic content of or the presence of drugs in  
10 such blood for the purpose of medical treatment of the driver of  
11 a vehicle involved in a motor vehicle accident shall disclose the  
12 results of the test (a) to a prosecuting attorney who requests the  
13 results for use in a criminal prosecution under ~~section~~ subdivision  
14 (3)(b) or (c) of section 28-306 or section 28-305, 60-6,196, or  
15 60-6,198 and (b) to any prosecuting attorney in another state who  
16 requests the results for use in a criminal prosecution for driving  
17 while intoxicated, driving under the influence, or motor vehicle  
18 homicide under the laws of the other state if the other state  
19 requires a similar disclosure by any hospital or person in such  
20 state to any prosecuting attorney in Nebraska who requests the  
21 results for use in such a criminal prosecution under the laws of  
22 Nebraska.

23 Sec. 18. Section 60-6,211.05, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 60-6,211.05 (1) If an order of probation is granted  
26 under section 60-6,196 or 60-6,197, as such sections existed prior  
27 to July 16, 2004, or section 60-6,196 or 60-6,197 and sections

1 60-6,197.02 and 60-6,197.03, as such sections existed on or after  
2 July 16, 2004, the court may order the defendant to: ~~install~~

3 (a) Install an ignition interlock device of a type  
4 approved by the Director of Motor Vehicles on each motor vehicle  
5 operated by the defendant. Any order issued by the court pursuant  
6 to this section shall not take effect until the defendant is  
7 eligible to operate a motor vehicle pursuant to subsection  
8 (2) of section 60-498.02. The device shall, without tampering  
9 or the intervention of another person, prevent the defendant  
10 from operating the motor vehicle when the defendant has an  
11 alcohol concentration greater than the levels prescribed in section  
12 60-6,196; or -

13 (b) Use a continuous alcohol monitoring device at all  
14 times while operating a motor vehicle. The device shall be approved  
15 by the director and shall, without tampering or the intervention of  
16 another person, test and record the alcohol consumption level of  
17 the defendant on a periodic basis and transmit such information to  
18 probation authorities.

19 Any order issued by the court pursuant to this section  
20 shall not take effect until the defendant is eligible to operate a  
21 motor vehicle pursuant to subsection (2) of section 60-498.02.

22 (2) If the court ~~orders an ignition interlock device or~~  
23 the Board of Pardons pursuant to section 83-1,127.02 orders an  
24 ignition interlock device ~~under section 83-1,127.02~~ or a continuous  
25 alcohol monitoring device, the court or the Board of Pardons shall  
26 order the Department of Motor Vehicles to issue to the defendant a  
27 restricted Class O license as provided in section 60-4,118.06 which

1 indicates that the defendant is only allowed to operate a motor  
2 vehicle equipped with an ignition interlock device or while using a  
3 continuous alcohol monitoring device. Such court order shall remain  
4 in effect for a period of time as determined by the court not to  
5 exceed the maximum term of revocation which the court could have  
6 imposed according to the nature of the violation. Such Board of  
7 Pardons order shall remain in effect for a period of time not to  
8 exceed any period of revocation the applicant is subject to at the  
9 time the application for a license reinstatement is made.

10 (3) A person who tampers with or circumvents an ignition  
11 interlock device ~~installed under~~ or continuous alcohol monitoring  
12 device required by a court order while the order is in effect or  
13 who operates a motor vehicle which is not equipped with an ignition  
14 interlock device or without using a continuous alcohol monitoring  
15 device in violation of a court order made pursuant to this section  
16 shall be guilty of a Class II misdemeanor.

17 (4) Any person restricted to operating a motor vehicle  
18 equipped with an ignition interlock device or while using a  
19 continuous alcohol monitoring device, pursuant to a Board of  
20 Pardons order, who operates upon the highways of this state a  
21 motor vehicle without an ignition interlock such device, ~~or who~~  
22 ~~operates a motor vehicle equipped with an ignition interlock device~~  
23 ~~which~~ if the device has been disabled, bypassed, or altered in any  
24 way, shall be punished as provided in subsection (3) of section  
25 83-1,127.02.

26 (5) The director shall adopt and promulgate rules and  
27 regulations to approve ignition interlock devices, continuous

1 alcohol monitoring devices, and the means of installation and  
2 use of the such devices.

3           Sec. 19. Section 83-1,127.02, Revised Statutes Cumulative  
4 Supplement, 2004, is amended to read:

5           83-1,127.02 (1) The Board of Pardons may, in its sole  
6 discretion, when granting a license reinstatement to any person  
7 who has made application pursuant to section 60-6,209, order such  
8 person to (a) operate only motor vehicles equipped with an ignition  
9 interlock device approved by the Director of Motor Vehicles or  
10 (b) operate a motor vehicle only while using a continuous alcohol  
11 monitoring device as defined in section 8 of this act approved by  
12 the director. The Board of Pardons may order the use of such a  
13 device for a period of time not to exceed any period of revocation  
14 the applicant is subject to at the time the application for a  
15 license reinstatement is made.

16           (2) Any person ordered by the Board of Pardons to operate  
17 only motor vehicles equipped with such an ignition interlock device  
18 or to operate a motor vehicle only while using a continuous  
19 alcohol monitoring device shall make application to the director  
20 for the issuance of a Class O operator's license restricted to  
21 the operation of a motor vehicle equipped with ~~such~~ an ignition  
22 interlock device or while using a continuous alcohol monitoring  
23 device.

24           (3) Any person restricted to operating a motor vehicle  
25 equipped with ~~such~~ an ignition interlock device or while using a  
26 continuous alcohol monitoring device who operates upon the highways  
27 of this state a motor vehicle without such ~~an ignition interlock~~

1 device or who operates a motor vehicle ~~equipped with such an~~  
2 ~~ignition interlock device which~~ if the device has been disabled,  
3 bypassed, or altered in any way, is guilty of a Class IV felony.  
4 The court shall, as a part of the judgment of conviction, order  
5 such person not to drive any motor vehicle for any purpose for a  
6 period of fifteen years from the date ordered by the court. The  
7 court shall also order that the operator's license of such person  
8 be revoked for a like period. The revocation shall be administered  
9 upon sentencing, upon the final judgment of any appeal or review,  
10 or upon the date that any probation is revoked.

11           Sec. 20. Original sections 60-497.01, 60-498.02,  
12 60-4,118.06, 60-4,182, 60-601, 60-605, 60-696, 60-698, 60-6,197.01,  
13 60-6,197.06, 60-6,197.08, 60-6,210, and 60-6,211.05, Reissue  
14 Revised Statutes of Nebraska, sections 28-306 and 83-1,127.02,  
15 Revised Statutes Cumulative Supplement, 2004, and sections 60-697  
16 and 60-6,197.03, Revised Statutes Supplement, 2005, are repealed.

17           2. On page 1, strike lines 2 through 12 and insert  
18 "60-497.01, 60-498.02, 60-4,118.06, 60-4,182, 60-601, 60-605,  
19 60-696, 60-698, 60-6,197.01, 60-6,197.06, 60-6,197.08, 60-6,210,  
20 and 60-6,211.05, Reissue Revised Statutes of Nebraska, sections  
21 28-306 and 83-1,127.02, Revised Statutes Cumulative Supplement,  
22 2004, and sections 60-697 and 60-6,197.03, Revised Statutes  
23 Supplement, 2005; to change penalty provisions for motor vehicle  
24 homicide and driving under the influence as prescribed; to  
25 provide for the use of continuous alcohol monitoring devices;  
26 to change provisions relating to motor vehicle accident scenes,  
27 administrative license revocation, and admissibility of blood

1 tests; to harmonize provisions; and to repeal the original  
2 sections.".